IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

MFA.No. 813 of 2001(A)

OP.192/1998 of DISTRICT COURT, THALASSERY
.....

APPELLANT: PETITIONER

TOMY FRANCIS, S/O. FRANCIS,
CHOORAKUNNEL HOUSE, PARAPPA,
ARANGAM AMSOM, ALAKKODE DESOM,
P.O. KUTTARAMBA, VIA. ALAKKODE,
KANNUR DIST.

BY ADV. SRI.GEORGE MECHERIL

RESPONDENT:RESPONDENT

VALSAMMA DEVASSIA, D/O. DEVASSIA,
ODANTHODE, KANICHAR AMSOM, THALASSERY TALUK,
DIST. KANNUR.

BY ADV. SRI.M.P.ASHOK KUMAR
SRI.P.NARAYANAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 20/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

M.F.A. No. 813 of 2001-A

Dated: November 20, 2007

JUDGMENT

Kurian Joseph, J.

This is an appeal filed against the judgment and decree in O.P.No.192 of 1998 on the file of the District Court, Thalassery. After having extensively heard the parties, learned counsel for the petitioner sought permission to withdraw O.P.No.192/1998 on the file of the District Court, Thalassery, with liberty to file a proper petition incorporating all the available grounds and properly impleading the respondent. The respondent has no objection to this course of action. We are of the view that in the peculiar facts and circumstances of the case,in the interests of the parties and in the interests of justice, it is only appropriate that such a liberty is granted to the appellant.

2. Accordingly, we set aside the judgment and decree in O.P.No.192/1998 on the file of the District Court, Thalassery. The said O.P. is therefore dismissed as withdrawn. It will be open to the appellant/petitioner to file a proper petition either for declaration of nullity of marriage or for a decree of divorce, before the Family Court incorporating all available grounds and properly impleading the parties. Needless to say that it will be open to the respondent to take all available contentions before the Family Court.

KURIAN JOSEPH, JUDGE

HARUN-UL-RASHID, JUDGE

mt/-

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

MFA No.813 of 2001-A

JUDGMENT

20.11.2007